

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare-Khammam District-Revision Petition filed u/s 6 of APSALTR, 1959 by Sri Gokarapu Raghavulu S/O Chinna Venkaiah and other R/O Gannepally (V) Dammapeta (M) against the Orders of the Agent to Government in C.M.A No: 20/88 dated: 28-07-1988 – Dismissed-Orders-Issued.

SOCIAL WELFARE (LTR.2) DEPARTMENT

G.O.MS.No: 123

Date:30-06-2008.

Read the following:

1. From Sri P.B.Vijay Kumar counsel for the Revision Petitioner dt: 22-01-1990.
2. Government Memo No: 2457/F/1990 Dt: 09-03-1990.
3. Collector Khammam in Rc.No.C1(M) CMA 20/88 Dated: 17-10-1993.
4. Govt. Memo No: 14659/LTR2/1998 Dtd: 16-07-2007, 03-08-2007 .

ORDER:

In the reference 1st read above Sri Gokarapu Raghavulu S/O Chinna Venkaiah, and other R/O Gannepally (V) Dammapeta (M) Khammam District have filed a Revision Petition against the Orders of the Agent to Government Khammam in C.M.A No: 20/88 dated: 28-07-1988 in respect of land situated in Survey No: 92 measuring Acres 10.00 of Gathegudem Gonnepalli Dammapet Mandal Khammam District. The main grounds of the Revision Petition among others are:

1. The petitioners cleared the jungle growth to the extent of 7.00 Acres of land in Survey No: 92/1 and 92/2 during 1960-61 and are in possession and enjoyment of the same without any interference.
2. The Revenue Department also booked B Memos from 1961 onwards and paying cist.
3. Since no transfer was affected, LTR is not applicable.
4. The appellate court failed to appreciate and apply G.O.Ms.No:951, dated: 04-12-1974 to the facts of the present case. Had it applied, the appeal would have been allowed.
5. The contention of the respondent i.e Gouri Ramdas (tribal) that his father cleared the jungle in 1964 was not proved by either oral or documentary evidence.

2 The Brief history of the case is that the Special Deputy Collector (T.W), Palawanacha, Khammam District initiated a case on the petition filed by Gouri Ramanadham (tribal). The non tribal respondent failed to attend the hearing and the tribal Petitioner attended the court on 27-10-1987 and deposed that the suit land was cleared by his father long back and that it was taken by Vallabahnani Narsimha Rao (non tribal) duly paying the cist. He further deposed that he cleared the jungle in the year 1964 and encroached the same land since then duly paying the B Memo charges etc on the land. The Special Deputy Collector (T.W) held that the transfer of immovable property belonging to the scheduled tribe was made to the non-tribal in contravention of sub section 1 of section 3 of APSALTR 1959 read with regulation 1 of 1970 and hence it is null and void and ordered ejectment against the respondent (herein Revision Petitioner's) or who ever is in possession of the immovable property situated in Survey No:92 containing an extent of Acres 10.00 in Gattugudem (V) H/O Gonnepalli Dammapeta (M) of Khammam District in Proceedings No:78/87 dated: 30-10-1987. Aggrieved by the order of Special Deputy Collector (T.W) Gokarapu Raghavulu (Non tribal) filed an appeal before the Agent to Government, Khammam District . After perusal of the records, the Agent to Government found that during the year 1961-62 Gokarapu Raghavulu (appellant) was in possession of 7.09 acres of land in Survey No: 92/2 and 92/1, but the extent in his occupation was not uniform through out the period. The occupation of the appellant in Survey No: 92 is only Acres 2.00 as per B.Memo record produced, whereas the appellant stated that he is in possession of Acres 7.00 out of the area covered by the Lower Court's Order. The appellant failed to establish his right over this land. The Agent to Government in his Proceedings CMA No: 20/88 dated

28-07-1988 confirming the orders of the Lower court dismissed the appeal. Aggrieved by the order of the Agent to Government the Petitioners filed a Revision Petition before the Government.

3. In the reference 2nd read above, the Agent to Government, Bhadrachalam was requested to furnish parawise remarks and case records and the same were furnished in the reference 3rd read above. After examination the case records notices were issued to the concerned to attend the hearing of the Revision Petition on 24-07-07 and was finally heard on 16-08-07 through the reference 4th read above. Sri Gokavarapu Venkateswara Rao on behalf of Gokavarapu Raghavulu and Smt Ch.Padma on behalf of Vallabhaneni Narsimha Rao were present. Counsel was absent. They corroborated with the contents of the Revision Petition.

4. Government after careful examination of the material evidence on record found that:

- i) SDC (TW) Paloncha in case No: 78/87 , dt: 30-10-1987 held that the suit land is a Government land cleared by the tribal petitioners long back and as such possession of the same by non-tribal is void under law.
- ii) The Agent to Government held in CMA No: 20/88, dated: 28-07-1988 that Gokarapu Raghavulu i.e 1st petitioner of Revision Petition stated that he is in possession of only Acres 7.00 in Survey No: 92 of Guttaigudem (V) H/O Gannepalli and that it is a Government Kharij Khata land. He produced B Memo record from 1961-62 to prove his possession.
- iii) The Mandal Revenue Officer Dammapeta initiated action under A.P Land Encroachment Act, 1985 and passed orders in file No: A/970/87, Dated: 09-10-1987 directing eviction of Sri Vallabhaneni Narsimha Rao from an extent of Acres 3.00 in Survey No: 92.
- iv) On verification of pahanies, Gokavarapu Raghavulu was in possession of Acres 2.00 only upto 1986-87 and failed to establish possession of acres 7.00 against Acres 10.00 (ordered for ejectment by SDC (T.W) Paloncha). Therefore lower court orders were upheld by Agent to Government Khammam in the appeal; and
- v) After perusal of pahanies from the years 1961-62 to 1986-87(with regard to occupation by 1st petitioner Sri Gokavarapu Raghavulu), the following is observed:

S.No:	Year	Total extent in S.No: 92/1	Extent occupied in Sy.No: 92/1	Total extent in S.No: 92/2	Extent occupied in Sy.No: 92/2	Total extent occupied in 92/1 & 92/3
1.	1961-62	7.03	3.20	3.29	3.29	6.49
2.	1962-63	7.03	4.03	3.29	1.00	5.03
3.	1963-64	7.03	4.03	3.29	1.00	5.03
4.	1964-65	7.03	7.03	--	--	7.03
5.	1967-68	7.03	4.00	3.29	3.29	7.29
6.	1970-71	7.03	4.03	3.29	3.29	7.32
7.	1971-72	7.03	4.03	3.29	3.29	7.32
8.	1973-74	7.03	4.03	3.29	3.29	7.32
9.	1974-75	7.03	4.03	3.29	3.29	7.32
10.	1975-76	7.03	4.03	3.29	3.29	7.32

11.	1976-77	7.03	4.03	3.29	1.29	5.32
12.	1977-78	--	--	3.29	1.29	1.29
13.	1978-79	7.03	2.03	--	--	2.03
14.	1980-81 to 1986-87	7.03	2.00	--	--	2.00

- vi) The occupation of the 1st petitioner Gokavarapu Raghavulu in Survey No: 92 (i.e Sy.No: 92/1 & 92/2) varied from Acres 7.32 to Acres 2.00 from 1961-62 to 1986-87. Thus, as he is in occupation of Government land to an extent of Acres 2.00 only at the end.
- vii) Gokarapu Chitteyya's name is no where found in the pahanies and he is not at all a party as also deposed by the 1st petitioner in the court of Agent to Government , Khammam .
- viii) Name of the 1st petitioner was booked as occupier only for collection of Land Revenue. The encroacher cannot claim any right or title over the extent of the land cultivated by him.
- ix) G.O.Ms.No: 951, dated: 4-12-1974 was quashed by the Hon'ble High Court of A.P and Government land cannot be assigned to non-tribal in the agency area.
- x) Thus, the 1st petitioner Gokavarapu Raghavulu failed to establish his legal possession over the extent of Acres 7.00 in Survey No: 92/1 and 92/2.
- xi) Name of the tribal i.e Gouri Ramdas or his father is also not found anywhere in the pahanies as occupant , but initially case was initiated by the SDC (T.W) Paloncha on the complaint of Gouri Ramdas for restoration of his land said to be illegally occupied by the non-tribal Revision Petitioner.

5. Government after careful examination of the case records direct the Additional Agent to Government, Khammam District to take over the possession of the land under dispute in Survey No: 92/1 and 92/2 in Gunnepalli (V) of Dammampeta (M) and assign to the eligible tribals including the tribal respondent i.e Gouri Ramdas, if he is found eligible and accordingly the Revision Petition, is dismissed.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**V.NAGI REDDY,
PRL. SECRETARY TO GOVERNMENT**

To:

The Collector, Khammam District (w.e)

(with RPAD of the following records)

(case No: 78/87 containing 92 pages)

(CMA No: 20/88 dt: 28-07-88 containing 90 pages) .

The Additional Agent to Government &P.O ITDA , Bhadrachalam,Khammam.

Sri Gokarapu Raghavulu S/O Chinna Venkaiah R/O Gannepally(V) Dammampeta
(M) Khammam District.

Gouri Ramadasu, H/O Connepally, Dammamet, Khammam District.

Vallabhaneni Erasimha , Gattugudem, Connapalli, Khammam District.

//FORWARDED BY ORDER//

SECTION OFFICER

